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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: OCTOBER 17, 2003

DOCKET NO: T-04124A-02-0570

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc Stern.
The recommendation has been filed in the form of an Order on:

TELLISS, L.L.C.
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

OCTOBER 27, 2003

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

NOVEMBER 4, 2003 and NOVEMBER 5, 2003

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission

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OCT 17 2003

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 COMMISSIONERS

4 MARC SPITZER, Chairman
5 WILLIAM A. MUNDELL
6 JEFF HATCH-MILLER
7 MIKE GLEASON
8 KRISTIN K. MAYES

9 IN THE MATTER OF THE APPLICATION OF
10 TELLISS, L.L.C. FOR A CERTIFICATE OF
11 CONVENIENCE AND NECESSITY TO PROVIDE
12 COMPETITIVE RESOLD INTEREXCHANGE
13 TELECOMMUNICATIONS SERVICES, EXCEPT
14 LOCAL EXCHANGE SERVICES.

DOCKET NO. T-04124A-02-0570

DECISION NO. _____

15 ORDER

16 Open Meeting
17 November 4 and 5, 2003
18 Phoenix, Arizona

19 **BY THE COMMISSION:**

20 Having considered the entire record herein and being fully advised in the premises, the
21 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

22 FINDINGS OF FACT

23 1. On July 29, 2002, Telliss, L.L.C. ("Applicant" or "Telliss") filed with the Commission
24 an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive
25 resold interexchange telecommunications services, except local exchange services, within the State of
26 Arizona.

27 2. Applicant is a switchless reseller that purchases telecommunications services from a
28 variety of carriers for resale to its customers.

3. In Decision No. 58926 (December 22, 1994), the Commission found that resold
telecommunications providers ("resellers") are public service corporations subject to the jurisdiction
of the Commission.

4. Telliss has authority to transact business in the State of Arizona.

5. On November 7 and 18, and December 23 and 27, 2002, Applicant filed Affidavits of

1 Publication indicating compliance with the Commission's notice requirements.

2 6. On September 29, 2003, the Commission's Utilities Division Staff ("Staff") filed a
3 Staff Report which includes Staff's fair value rate base determination in this matter and recommends
4 approval of the application subject to certain conditions.

5 7. In the Staff Report, Staff stated that Telliss provided unaudited financial statements for
6 the three months ending April 30, 2003, which list assets of \$1,068,751, equity of \$227,163 and net
7 income of \$381,933.

8 8. In its Staff Report, Staff stated that based on information obtained from the Applicant,
9 it has determined that Telliss' fair value rate base ("FVRB") is zero and is not useful in a fair value
10 analysis, and is not useful in setting rates. Staff further stated that in general, rates for competitive
11 services are not set according to rate of return regulation, but are heavily influenced by the market.
12 Staff recommended that the Commission not set rates for Telliss based on the fair value of its rate
13 base.

14 9. Staff believes that Telliss has no market power and that the reasonableness of its rates
15 will be evaluated in a market with numerous competitors. In light of the competitive market in which
16 the Applicant will be providing its services, Staff believes that the rates in Applicant's proposed
17 tariffs for its competitive services will be just and reasonable, and recommends that the Commission
18 approve them.

19 10. Staff recommended approval of Telliss' application subject to the following:

20 (a) The Applicant should be ordered to comply with all Commission rules, orders,
21 and other requirements relevant to the provision of intrastate telecommunications
22 service;

23 (b) The Applicant should be ordered to maintain its accounts and records as
24 required by the Commission;

25 (c) The Applicant should be ordered to file with the Commission all financial and
26 other reports that the Commission may require, and in a form and at such times as the
27 Commission may designate;

28 (d) The Applicant should be ordered to maintain on file with the Commission all
current tariffs and rates, and any service standards that the Commission may require;

1 (e) The Applicant should be ordered to comply with the Commission's rules and
2 modify its tariffs to conform to these rules if it is determined that there is a conflict
between the Applicant's tariffs and the Commission's rules;

3 (f) The Applicant should be ordered to cooperate with Commission investigations
4 including, but not limited to customer complaints;

5 (g) The Applicant should be ordered to participate in and contribute to a universal
6 service fund, as required by the Commission;

7 (h) The Applicant should be ordered to notify the Commission immediately upon
8 changes to the Applicant's address or telephone number;

9 (i) If at some future date, the Applicant wants to collect from its customers an
10 advance, deposit and/or prepayment, it must file information with the Commission for
Staff review. Upon receipt of such filing and after Staff review, Staff would forward
its recommendation to the Commission;

11 (j) The Applicant's interexchange service offerings should be classified as
12 competitive pursuant to A.A.C. R14-2-1108;

13 (k) The Applicant's maximum rates should be the maximum rates proposed by the
14 Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive
15 services should be the Applicant's total service long run incremental costs of
providing those services as set forth in A.A.C. R14-2-1109; and

16 (l) In the event that the Applicant states only one rate in its proposed tariff for a
17 competitive service, the rate stated should be the effective (actual) price to be charged
for the service as well as the service's maximum rate.

18 11. Staff further recommended that Telliss' Certificate should be conditioned upon the
19 Applicant filing conforming tariffs in accordance with this Decision within 365 days from the date of
20 an Order in this matter, or 30 days prior to providing service, whichever comes first.

21 12. Staff recommended that if the Applicant fails to meet the timeframes outlined in
22 Findings of Fact No. 11, that Telliss' Certificate should become null and void without further Order
23 of the Commission, and that no time extensions for compliance should be granted.

24 13. Telliss will not collect advances, prepayments or deposits from its customers.

25 14. The rates proposed by this filing are for competitive services.

26 15. Staff's recommendations as set forth herein are reasonable.

27 16. Telliss' fair value rate base is zero.

28 ...

CONCLUSIONS OF LAW

1
2 1. Applicant is a public service corporation within the meaning of Article XV of the
3 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

4 2. The Commission has jurisdiction over Applicant and the subject matter of the
5 application.

6 3. Notice of the application was given in accordance with the law.

7 4. Applicant's provision of resold interexchange telecommunications services is in the
8 public interest.

9 5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for
10 providing competitive resold interexchange telecommunications services in Arizona.

11 6. Staff's recommendations in Findings of Fact No. 8, 9, 10, 11, and 12 should be
12 adopted.

13 7. Telliss' fair value rate base is not useful in determining just and reasonable rates for
14 the competitive services it proposes to provide to Arizona customers.

15 8. Telliss' rates, as they appear in its proposed tariffs, are just and reasonable and should
16 be approved.

ORDER

17
18 IT IS THEREFORE ORDERED that the application of Telliss L.L.C.. for a Certificate of
19 Convenience and Necessity for authority to provide competitive resold interexchange
20 telecommunications services, except local exchange services, is hereby granted, conditioned upon its
21 compliance with the conditions recommended by Staff as set forth in Findings of Fact No. 11 above.

22 IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos.
23 8, 9, 10, 11, and 12 above are hereby adopted.

24 IT IS FURTHER ORDERED that Telliss L.L.C. shall comply with the adopted Staff
25 recommendations as set forth in Findings of Fact Nos. 10 and 11 above.

26 IT IS FURTHER ORDERED that if Telliss L.L.C. fails to meet the timeframes outlined in
27 Findings of Fact. No. 11 above that the Certificate conditionally granted herein shall become null and
28 void without further Order of the Commission.

1 IT IS FURTHER ORDERED that Telliss L.L.C. shall not require its Arizona customers to
2 pay advances, prepayments or deposits for any of its products or services.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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6 _____
7 CHAIRMAN COMMISSIONER COMMISSIONER

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9 COMMISSIONER COMMISSIONER

10 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
11 Secretary of the Arizona Corporation Commission, have
12 hereunto set my hand and caused the official seal of the
13 Commission to be affixed at the Capitol, in the City of Phoenix,
14 this ____ day of _____, 2003.

15 _____
16 BRIAN C. McNEIL
17 EXECUTIVE SECRETARY

18 DISSENT _____

19 DISSENT _____
20 MES:dap

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1 SERVICE LIST FOR: TELLISS L.L.C.
2 DOCKET NO.: T-04124A-02-0570

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